

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

TOM MCMAHON,)	
)	
Plaintiff,)	Case No.: 3:13-cv-368
)	
vs.)	PLAINTIFF'S COMPLAINT
)	AND DEMAND FOR JURY TRIAL
ZENITH FINANCIAL NETWORK, INC.)	
)	
Defendant.)	

VERIFIED COMPLAINT

TOM MCMAHON, ("Plaintiff"), through the undersigned counsel, DAVE LILLEY alleges the following against ZENITH FINANCIAL NETWORK, INC., ("Defendant"):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. 1692 et seq. (FDCPA).

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 15 U.S.C. 1692k(d), which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy."

3. Defendant conducts business in the state of Texas, and therefore, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. 1391(b)(1).

5. Declaratory relief is available pursuant to 28 U.S.C. 2201 and 2202.

PARTIES

6. Plaintiff is a natural person residing in Dallas, TX.

7. Plaintiff is a consumer as that term is defined by 15 U.S.C. 1692a(3), and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by 15 U.S.C. 1692a(5).

8. Defendant is a debt collector as that term is defined by 15 U.S.C. 1692a(6), and sought to collect a consumer debt from Plaintiff.

9. Defendant is a national company, with its corporate office located at: 1489 West Palmetto Park Road, Suite 360, Boca Raton, FL 33486. Defendant may also be served through its registered agent, Juan Nava-Ruiz, 7135 NW 83rd Avenue, Tamarac, FL 33321.

10. Defendant, in the ordinary course of business, regularly, on behalf of itself or others, engages in debt collection.

FACTUAL ALLEGATIONS

11. Defendant places collection calls to Plaintiff seeking and demanding payment for the alleged debt.

12. Defendant calls Plaintiff from telephone number 888-266-2579 seeking and demanding payment for the alleged debt.

13. Defendant places telephone calls without meaningful disclosure of the caller's identity as Defendant does not state the name of its company.

14. Defendant fails to identify itself as a debt collector in subsequent communications.

15. Defendant did not send Plaintiff a validation letter.

16. Defendant contacted Plaintiff's brother (a third party) and disclosed the existence

and nature of a debt.

17. Defendant contact Plaintiff's place of employment and left a voice-mail for Plaintiff on his supervisor's voice-mail system, thereby disclosing the nature and existence of the debt.

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

18. Defendant violated the FDCPA based on the following:

- a.) Defendant violated §1692d of the FDCPA by engaging in conduct the natural consequence of which is to harass, oppress, or abuse the Plaintiff in connection with the collection of a debt.
- b.) Defendant violated §1692d(5) of the FDCPA by causing a telephone to ring repeatedly and continuously with the intent to annoy, abuse, and harass Plaintiff.
- c.) Defendant violated §1692d(6) of the FDCPA by placing telephone calls without meaningful disclosure of the caller's identity because Defendant does not state the name of its company.
- d.) Defendant violated §1692c(a)(1) of the FDCPA by communicating with Plaintiff at such place and time known or which should have been known to be inconvenient to Plaintiff.
- e.) Defendant violated §1692b(1) of the FDCPA by contacting persons other than Plaintiff and failing to identify him/herself and failing to state the he/she is confirming or correcting location information concerning Plaintiff.
- f.) Defendant violated §1692b(2) of the FDCPA by stating that the Plaintiff

owes a debt in communications with persons other than Plaintiff.

g.) Defendant violated §1692b(3) of the FDCPA by contacting a person other than Plaintiff more than once in communications with persons other than Plaintiff.

WHEREFORE, Plaintiff, TOM MCMAHON, respectfully requests judgment be entered against Defendant, ZENITH FINANCIAL NETWORK, INC., for the following:

- a. Declaratory judgment that Defendant's conduct violated the Fair Debt Collection Practices Act,
- b. Statutory damages pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k,
- c. Actual damages,
- d. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k
- e. Any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, TOM MCMAHON, demands a jury trial in this case.

ALEX SIMANOVSKY & ASSOCIATES, LLC

/s/ Dave Lilley
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